

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814

February 15, 1989



ALL COUNTY LETTER NO. 89-17

TO: ALL COUNTY WELFARE DIRECTORS

- SUBJECT:
1. REIMBURSEMENT OF COSTS INCURRED PRIOR TO ISSUANCE OF CLAIMING CLEARANCE
 2. RENEGOTIATING AN IHSS CONTRACT FOR THE RENEWAL YEAR
 3. AUDITING OF INVOICES
 4. MONITORING CONTRACTOR PERFORMANCE

The purpose of this letter is to implement recommendations set forth in the report of the Auditor General's Office (AGO) entitled "A REVIEW OF CALIFORNIA'S CONTRACTS FOR IN-HOME SUPPORTIVE SERVICES" (IHSS) dated September 1988. This letter (1) reiterates the State Department of Social Services' (SDSS) regulations regarding contract costs incurred prior to the issuance of a claiming clearance, (2) reminds Counties of the processes to follow when renegotiating an IHSS contract for the renewal year, (3) reminds Counties to monitor the accuracy of contractors' invoices, especially information transferred from timesheets, and (4) requires Counties utilizing the contract mode of service delivery to submit copies of their contractor performance monitoring plans to SDSS for review and approval.

1. REIMBURSEMENT OF COSTS

When IHSS contractors provide services without approved contracts, the interests of the Counties and the State are not fully protected. That is, Counties may not be eligible for state reimbursement of the Counties' costs for unapproved contracts, and the State may not be eligible for federal reimbursement of state costs for unapproved contracts. Also, IHSS recipients could face a break in service if a contractor providing services without a valid contract stopped providing services and the County had to find other means of providing the services.

Therefore, in accordance with SDSS' Manual of Policies and Procedures (MPP) Section 23-630.6, Counties will not receive reimbursement for costs incurred prior to the issuance of claiming clearance regardless of the date the contract was executed at the County level. For the SDSS to issue claiming clearance in a timely manner, and to ensure that there not be a break in services so recipients can remain safely in their own homes, the Contractor, County, and State must meet the mandated timeframes for review and approvals at the various stages of the Invitation for Bid (IFB) process. MPP Section 23-610(b) specifies that the IFB method of procurement must be used, unless the County documents that the Request for Proposal (RFP) method is more advantageous, in terms of price and service delivery, before initiating the procurement process. The County shall obtain prior SDSS approval before using the RFP method for IHSS contracts. In accordance with MPP Sections 23-610 and 23-620, the timeframes for IFB's are as follows:

<u>Action</u>	<u>MPP Section</u>	<u>Timeframe</u>
The County shall submit the IFB to SDSS for approval at least 90 calendar days prior to the proposed distribution date.	23-610(d)	N/A
SDSS shall notify County within 30 calendar days of whether the IFB is complete and within 60 calendar days, upon receipt of complete information, of its approval, or any required changes.	23-610(d)	60-90 days
County shall announce IFB (i.e., formally advertise.)	23-610(a)(f)	14 days
County shall mail IFB to interested parties.	N/A	14 days
County makes any necessary changes to the IFB, issues an amendment to each bidder, and displays the amended IFB in a place accessible to the public.	23-610(f)(1), 23-610(g)(1) and (2)	1 day +

Prospective Contractors shall prepare and submit their bids to the County.

23-611

28 days

County shall open and evaluate all bids and notify SDSS, and all bidders, of the recommended award and the public hearing date and time, at least 60 calendar days prior to the required public hearing.

23-620.2

14 days

County shall conduct a protest period, resolve all protests, and submit copies and responses thereof to SDSS.

23-624

County IFB
Specific

SDSS shall review and approve the County recommendation. SDSS will notify the County within 15 days of whether the information is complete and within 45 days, upon receipt of complete information, of its decision to award. (SDSS will render its decision once protests have been resolved by the County.)

23-620.3

45-60 days

County makes presentation to Board of Supervisors.

N/A

7 days

Board hearing and award of contract.

23-625.1 and
23-625.3

1 day

County submits the executed copy of the contract to SDSS for claiming clearance approval. NOTE: The contract shall not deviate from that contained in the IFB.

23-630.8

15 days

To ensure continuity of service is provided to recipients, and reimbursements of cost are realized, these timeframes must be met.

2. RENEGOTIATING IHSS CONTRACTS

MPP Section 23-621 discusses contract periods and the requirements for renegotiating renewal contracts. A two year contract originally obtained by bid may be renewed for a third year without rebidding if the potential for renewal has been included in the IFB.

In accordance with MPP Section 23-621.16 and Welfare and Institutions Code Section 12302.1, if a County chooses to renew a contract for a third year, the rate of reimbursement for an additional period shall be negotiated with the existing contractor based on:

- o Actual expenditures by the contractor, as documented during the first contract term and approved by the County and SDSS.
- o Changes in federal, state or county program requirements.
- o State and federal minimum wage, benefits and contractual merit step increases.
- o Changes in statutory taxes or insurance costs.
- o Other reasonable costs or increases in cost over which the contractor has no control. Such costs may include, but are not limited to, increases in rent, maintenance, janitorial services, utilities, postage, telephone services, supplies, and personnel advertising.
- o Profit may be renegotiated but shall not exceed the percentage of profit, based upon total cost, as negotiated in the first term.

In negotiating costs for an additional term, the County must assure that these costs accurately reflect current contract performance and are not inflated to recover costs which may have been underbid by the contractor during the original bidding process. The County shall assure, by audit if necessary, that all cost increases are reasonable and necessary to the continuation of the contract. All IHSS contracts, original and renegotiated, must be approved by the Board of Supervisors and SDSS in accordance with MPP Section 23-625. The contract renewal processes are as follows:

- o The County should initiate the contract renegotiation process ten (10) months prior to the expiration of the second year.

- o The proposed contract should be submitted for SDSS review and approval at least nine (9) months prior to the expiration of the second year. The County should have an IFB available for processing in the event the renegotiation process is not successful.
- o The County shall submit renegotiated contracts for IHSS to SDSS for approval at least ninety (90) calendar days before the County Board of Supervisors' public hearing. The County shall also provide documentation for any cost increases over the original two-year contract, to demonstrate compliance with MPP 23-621, and highlight any changes to program policy and other requirements of the contract.
- o The SDSS will review the contract and supporting material for any changes in state or federal laws and regulations affecting the contract, compliance with cost increase standards in MPP Section 23-621 and the appropriateness of any county changes to the contract under state and federal laws and regulations. No contract provisions may be changed during renewal unless required by state or federal laws or regulations, or county ordinance.

The SDSS will respond in writing with an approval or denial of funding for the renegotiated contract. If the contract is not approved, the SDSS shall set forth the reasons for denial and conditions, if any, by which the County may gain approval for funding. The SDSS will notify the County within fifteen (15) calendar days of receipt if the required material is complete or deficient, and within forty-five (45) calendar days upon receipt of complete information of its decision on the contract renegotiation. Again, renegotiated contracts must be fully executed in time to receive claiming clearance prior to commencement of work, in order to avoid financial loss to the County.

3. AUDITING OF INVOICES

The MPP Sections 10-150 through 10-153 and 23-640 require that Counties monitor their IHSS contracts for compliance. The contracts require contractors to bill Counties for services provided and the Counties must pay for these services in a timely manner; however, the contracts have no provisions allowing Counties to reimburse the contractors for more services than were provided or in advance of being provided.

The new model contract, which several Counties have used, and all other Counties must utilize when they next go out for bid, does not allow advance or interim payments. The SDSS is piloting, with three Counties, a contractor invoice auditing interface project that will be made available to all contract Counties in the near future. This is expected to improve the quality and timeliness of County approvals of contractor invoices, so the need for interim payments to meet cash flow needs of the contractor can be eliminated.

The AGO report noted that some Counties do not employ a satisfactory contractor billing verification system. Several audits by the State Controllers Office have reported inadequate verification of individual provider timesheets as well.

All County Letter (ACL) 87-96 reminded the Counties' of their responsibility concerning the processing of IHSS provider timesheets and requested that each County submit to the department a copy of its procedures for timesheet verification. Not all Counties have complied with that ACL. Individual letters requesting timesheet verification procedures will be forthcoming to delinquent Counties.

County staff are required to monitor the accuracy of individual provider and contractor timesheets against those items billed to the County. Where discrepancies exist, the County must take appropriate corrective action. By March 1, 1989, Contract Counties must submit to the SDSS copies of their contractor billing verification procedures for review and approval.

4. MONITORING CONTRACTOR PERFORMANCE

Counties utilizing the contract mode of service delivery are reminded of their responsibility to monitor the performance of the contractor to assure the appropriateness and quality of service. In accordance with MPP 10-154, the County Welfare Department has the responsibility to prepare an annual written report of the performance of service contractors, both qualitative and quantitative, which shall be made available for SDSS review. By March 1, 1989, Contract Counties must submit their contractor performance monitoring plan to SDSS for review and approval.

If you have any questions regarding this ACL, please contact your
IHSS Program Analyst at (916) 322-6320.

A handwritten signature in cursive script, appearing to read "Loren D. Suter".

LOREN D. SUTER
Deputy Director
Adult and Family Services

cc: CWDA